

Goren's affirmative claims.¹ On October 15, 2014, the SJC issued *Auto Flat Car Crushers, Inc. v. Hanover Ins. Co.*, 469 Mass. 813 (2014) which addresses the section 11 standards.

On October 24, 2014, defendant filed a notice of supplemental authority bringing to the Court's attention—apparently addressing plaintiffs' 93A claims-- the Ninth Circuit case of *Levitt v. Yelp!*, 765 F. 3d 1123 (9th Cir. Sept. 2, 2014). On September 17, 2014, the Ninth Circuit issued its opinion in *Jane Doe 14 v. Internet Brands, Inc.*, 767 F.3d 894 (9th Cir. 2014) (CDA is not a legislative grant of general immunity from liability derived from, or having a "but for" relationship with, third party content; CDA does not preclude a tort claim under California law for failure to warn a user).

Defendant does not object to allowance of this motion.

WHEREFORE, Plaintiffs request leave to file the attached Notice of Supplemental Authority in opposition to Defendant's June 13, 2014 motion for summary judgment.

Respectfully submitted,

SMALL JUSTICE LLC,
RICHARD A. GOREN, and CHRISTIAN
DUPONT,
Plaintiffs,

by their attorney,

October 30, 2014

/s/ Richard A. Goren
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¹ See, e.g., Paper 64 at 26 "Nor must Goren prove that Xcentric intended to deceive him or that he relied on the unfair or deceptive act or practice. *Aspinall v. Philip Morris Cos.*, 442 Mass. 381, 394 (2004). It is sufficient if there is a causal relation between the act or practice and some injury to Goren. *Fraser Eng'g Co., Inc. v. Desmond*, 26 Mass. App. Ct. 99, 104 (1988)."

CERTIFICATE OF COMPLIANCE WITH LR 7.1 (a)(2) and CERTIFICATE OF SERVICE

I hereby certify that I conferred with counsel for the defendant and defendant does not object to allowance of this motion.

/s/ Richard A. Goren

I hereby certify that this document will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and that paper copies will be sent to those non-registered participants (if any) on October 30, 2014.

/s/ Richard A. Goren